

NOTICE OF AGENCY RULE-MAKING PROPOSAL

AGENCY: Department of Marine Resources

RULE TITLE OR SUBJECT: Chapter 45 Shrimp

CONCISE SUMMARY: The proposed amendments would increase the cod end mesh size minimum from 6 to 6.5 inches in trawl net gear, update the prohibited bycatch list of regulated groundfish species and repeal the April small mesh exempted area between Matinicus and Vinalhaven. These changes are necessary for consistency with Chapter 34 of the Maine Department of Marine Resources' rules for Groundfish that became effective on July 22, 2002 to complement and support the Court order issued by the United States District Court for the District of Columbia in connection with the lawsuit filed in Conservation Law Foundation v. Evans on April 26, 2002, as modified by the court on May 23, 2002, and the federal regulations promulgated in connection with that order which became effective as of June 1, 2002.

Separate technical corrections and updates include: Chapter 45.50 would be repealed, as the penalty provision cited therein is redundant with the statutes; the term "presumed" would be changed to "prima facie evidence" for consistency with new enforcement rules; the definition of shrimp is clarified to ensure that the existing meaning of all *Pandalid* species is consistent throughout Chapter 45, unless otherwise stated; and the closed season referred to under the processing section of 45.05(1)(B) is clarified to mean the time period other than the annually set open season in section 45.05. The 2001 calendar appended to the end of the rules would be repealed.

STATUTORY AUTHORITY: 12 M.R.S.A. §6171

PUBLIC HEARING: Thursday, August 7, 2003, 7:00 pm, Department of Marine Resources, Large Conference Room, 200 McKown Point Road, West Boothbay Harbor

DEADLINE FOR COMMENTS: Monday, August 18, 2003

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Proposed rulemaking: DEPARTMENT OF MARINE RESOURCES
Chapter 45 - Shrimp

45.01(D) Shrimp. "Shrimp", "any shrimp" or "Northern Shrimp" means all *Pandalid* species including, but not limited to, *Pandalus borealis*.

45.05(1)(A)(1)(2)(c) On closed days, it is unlawful to fish for or land any shrimp during the entire 24 hour day; and it shall be prima facie evidence ~~presumed~~ that any shrimp landed or possessed by harvesters during that period were taken during a closed day.

45.05(1)(B) Processing

It shall be unlawful to process shrimp in Maine except during the fishing season established in Chapter 45.05(1)(A)(2) period from December 1 through June 1 of any year.

(1) Exception.

A processor may process shrimp outside of the fishing season established in Chapter 45.05(1)(A)(2) during the period from June 2, through November 30 of any year upon obtaining a permit from the Maine Department of Marine Resources.

(2) Documentation.

The Department of Marine Resources shall issue a permit to a shrimp processor for processing of shrimp outside of the fishing season established in Chapter 45.05(1)(A)(2) during the period from June 2, through November 30 of any year if that processor produces documented evidence proving that the shrimp to be processed were lawfully harvested.

45.10 Net restrictions

A. Mesh size

1. It shall be unlawful to fish for, take, transport or possess any shrimp on board any vessel rigged ~~with a trawl net for otter trawling with a net~~ having a mesh opening of less than 1 ¾ inches between knots. It shall also be unlawful to possess a net or netting with an opening of less than 1 ¾ inches between knots on board any vessel rigged with a trawl net for otter trawling which is engaged in the fishing for, taking, or transport of shrimp or which carries shrimp for any purpose, except that the webbing funnel may be constructed with a mesh size not less than 1 3/8 inches. Additionally, an exception is made for a deflector panel of 1-inch mesh in the cod end behind the second grate in a double grate system, as described in Chapter 45.10(F).
2. EXCEPTION for Maine Territorial Seas: Pursuant to Department of Marine Resources' Regulation 34.10(1)(C)(1) and (2), any vessel rigged ~~for otter trawling~~ with a trawl net having a mesh size of less than 6 inches diamond or square mesh in the body and wings and less than 6.5 inches diamond or square mesh in the cod end, may only fish in Maine territorial waters ~~seas~~ January 1 to March 31, both days inclusive. ~~In addition, it shall be lawful to use mesh size less than 6 inch mesh in Maine territorial seas April 1 – April 30 inclusive easterly of the following line: Beginning at the territorial sea line true south from the southwestern tip of Matinicus Island and running northerly through Matinicus Island to Bell Buoy "9 M"; thence northerly to the Bay Ledge Whistle Buoy "R 2"; thence northerly to Heron Neck Light on Vinalhaven; thence easterly to the southern tip of Sheep Island; thence northeasterly to Calderwood Point, Vinalhaven; thence northerly to Mullen Head, North Haven and southerly of the following line, beginning at Mullen Head, North Haven thence north easterly to Dunham Point on Deer Isle.~~

45.10(A)(4) The maximum length of the bottom legs of the bridle of any shrimp trawl net shall not exceed 15 fathoms of uncovered or bare wire.

Exception. No person may possess any regulated species of Atlantic cod, pollock, Yellowtail flounder, witch flounder, haddock, redfish, winter flounder, American Plaice, white hake cod, witch flounder, American plaice, Atlantic halibut, yellowtail flounder, haddock, pollock, winter flounder, windowpane flounder, redfish, ocean pout and white hake on board any vessel while fishing for shrimp.

45.10(B) Chafing gear and liner

It shall be unlawful to fish for, take, transport or possess any shrimp on board a boat rigged ~~for otter trawling~~ with a trawl net of more than one layer or with a liner of any kind attached, except that a cod end strengthener may be used as specified in Chapter 45.10(E). However, it shall be lawful to attach chafing gear to the lower half of the circumference of the cod end unless a cod end strengthener is used. Any such chafing gear shall be attached in such a manner as to ensure that the effective mesh opening in the cod end is not diminished.

45.10(E) Cod End Strengtheners

An outer mesh may be used as a cod end strengthener while fishing for Northern Shrimp (*Pandalus borealis*). The outer mesh must be a minimum of 6.5 inches and the outer mesh must be at least three times larger than the size of the inner mesh. The mesh may be single or double twine, and diamond or square in shape. The hanging ratio must be the same as the mesh size ratio. Hanging ratio shall mean the number of meshes in the circumference of the cod end compared to the number of meshes in the circumference of the strengthener. The mesh size ratio shall mean the number of inner meshes compared to the number of outer meshes. The outer mesh may only cover the cod end. No chafing gear may be used with a cod end strengthener.

45.50—Penalty

~~Any violation of these regulations shall be a Class D crime.~~

The following 2001 season calendar appended to Chapter 45 is proposed to be struck:

**Maine's 2001 Shrimp Season
Dragger/Trapper Shrimp Calendar
Same season for draggers and trappers
/ Indicates Closed Days**

~~The 2001 open season for shrimp is split. The open season begins on January 9, 2001 and ends on March 17, 2001, both days inclusive, with no closed days. The season is closed from March 18, 2001 to April 15, 2001, both day inclusive. The season reopens on April 16, 2001 and ends on April 30, 2001, both days inclusive, with no closed days. Total season is 83 days.~~

~~Shrimp traps may NOT be left in the water between seasons. Unbaited shrimp traps may be set 5 days before the start of each season, and must be removed no later than 5 days after the end of each season. Trapped shrimp may not be retained at any time other than the open season.~~

January 2001						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	/1	/2	/3	/4	/5	/6
/7	/8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

February 2001						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28			

March 2001						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
/18	/19	/20	/21	/22	/23	/24
/25	/26	/27	/28	/29	/30	/31

April 2001						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
/1	/2	/3	/4	/5	/6	/7
/8	/9	/10	/11	/12	/13	/14
/15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Memorandum

To: Shrimp rulemaking - interested persons
From: Col. Joe Fessenden, Laurice U. Churchill
Date: July 8, 2003
Subject: Chapter 45 Proposed Rulemaking – mesh size and technical changes

Several amendments are proposed in Chapter 45 Shrimp for consistency with applicable rules on ground fishing that became effective on July 22, 2002 in Chapter 34 Groundfish. These changes are intended to complement and support the Court ordered remedy entered by the United States District Court for the District of Columbia in connection with the lawsuit filed in Conservation Law Foundation v. Evans on April 26, 2002, as modified by the court on May 23, 2002, and the federal regulations promulgated in connection with that order which became effective as of June 1, 2002. The proposed amendments would increase the cod end mesh size from 6 to 6.5 inches in trawl net gear, update the prohibited bycatch list of regulated groundfish species (ocean pout, windowpane flounder and Atlantic halibut would be added) and repeal the April small mesh exempted area between Matinicus and Vinalhaven that is inconsistent with the April – June groundfish spawning closure component of Chapter 34 of the Department's rules.

Separate technical corrections and updates include: Chapter 45.50 would be repealed, as the penalty provision cited therein is redundant with the statutes; the term "presumed" would be changed to "prima facie evidence" for consistency with other similar new enforcement rules; the definition of shrimp is clarified to ensure that the original intended meaning of "all Pandalid species" is consistent throughout Chapter 45, unless otherwise stated; and the closed season referred to under the processing section in 45.05(B) is clarified to mean the closed season time period other than the annually set open season in section 45.05. The 2001 calendar appended to the end of the rules would be repealed.

Brief purpose summary of individual proposed amended sections:

- 45.01(D) Definitions, Shrimp: Clarify definition of shrimp for clarity and consistency throughout the chapter.
- 45.05(1)(A)(2)(c) Shrimp season, Harvest and Transport, Fishing season, closed days: Correct ~~presumed~~ to prima facie evidence for consistency with similar enforcement rules.
- 45.05(1)(B) Shrimp season, Processing: Replace ~~period from December 1 through June 1 of any year~~ with outside of the fishing season established in Chapter 45.05(1)(A)(2), which is the season set each year in conjunction with the Atlantic States Marine Fisheries Commission Northern Shrimp Management Plan
- 45.10(A)(1)&(2) Net restrictions, Mesh size: Replace "~~otter-trawl~~" with "trawl net" for greater flexibility and consistency with the term "trawl net" used in Chapter 34 Groundfish. Plus, update the mesh size in the cod end from 6 to 6.5 inches and 6 inches in the body and wings.
- 45.10(A)(2) Net restrictions, Mesh size, Exception: Repeal the April small mesh exempted area that is not consistent with the groundfish spawning closure.
- 45.10(A)(4) Exception. Update the regulated species list to include Atlantic halibut, windowpane flounder, and ocean pout to match Chapter 34.
- 45.10(B) Chafing gear and liner: Replace "~~otter-trawl~~" with "trawl net" for consistency with the term "trawl net" used in Chapter 34 Groundfish.
- 45.10(E) Cod End Strengtheners: Update the mesh size in the cod end mesh from 6 to 6.5 inches for consistency with Chapter 34.
- 45.50 Penalty: Repeal – redundant with the law.
- Secretary of State Appended 2001 calendar – repeal